



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/903,257 | 07/11/2001 | Steven M. Cohn | 2003034-0002 | 9439 |

22204 7590 07/05/2005

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

EXAMINER

THEIN, MARIA TERESA T

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3627

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 09/903,257 | Applicant(s) COHN ET AL. | |
| | Examiner Marissa Thein | Art Unit 3627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on April 18, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicants' "Amendment" filed on April 18, 2005 has been considered.

Applicants' response by virtue of amendments to claims 12-16 has overcome the Examiner's rejection of such claims under 35 USC 101.

Applicants' response to claim 17 has not overcome the Examiner's rejection of such claim under 35 USC 101.

Claims 1, 4, 6, and 12-13 are amended. Claims 2-3 and 5 are canceled. Claims 1, 4, 6-17 are pending in this application.

Claim Rejections - 35 USC § 101

Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As an initial matter, the United States Constitution under Art. I, §8, cl. 8 gave Congress the power to "[p]romote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries". In carrying out this power, Congress authorized under 35 U.S.C. §101 a grant of a patent to "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition or matter, or any new and useful improvement thereof." Therefore, a fundamental premise is that a patent is a statutorily created vehicle for Congress to confer an exclusive right to the inventors for "inventions" that promote the progress of "science and the useful arts". The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Hence, the first test of

whether an invention is eligible for a patent is to determine if the invention is within the "technological arts".

Further, despite the express language of §101, several judicially created exceptions have been established to exclude certain subject matter as being patentable subject matter covered by §101. These exceptions include "laws of nature", "natural phenomena", and "abstract ideas". See *Diamond v. Diehr*, 450, U.S. 175, 185, 209 USPQ (BNA) 1, 7 (1981). However, courts have found that even if an invention incorporates abstract ideas, such as mathematical algorithms, the invention may nevertheless be statutory subject matter if the invention as a whole produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* 149 F.3d 1368, 1973, 47 USPQ2d (BNA) 1596 (Fed. Cir. 1998).

This "two prong" test was evident when the Court of Customs and Patent Appeals (CCPA) decided an appeal from the Board of Patent Appeals and Interferences (BPAI). See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978). In *Toma*, the court held that the recited mathematical algorithm did not render the claim as a whole non-statutory using the Freeman-Walter-Abele test as applied to *Gottschalk v. Benson*, 409 U.S. 63, 175 USPQ (BNA) 673 (1972). Additionally, the court decided separately on the issue of the "technological arts". The court developed a "technological arts" analysis:

The "technological" or "useful" arts inquiry must focus on whether the claimed subject matter...is statutory, not on whether the product of the claimed subject matter...is statutory, not on whether the prior art which the claimed subject matter purports to replace...is statutory, and not on whether the claimed subject matter is presently perceived to be an improvement over the prior art, e.g., whether it "enhances" the operation of a machine. In *re Toma* at 857.

Art Unit: 3627

In *Toma*, the claimed invention was a computer program for translating a source human language (e.g., Russian) into a target human language (e.g., English). The court found that the claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer.

The decision in *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* never addressed this prong of the test. In *State Street Bank & Trust Co.*, the court found that the "mathematical exception" using the Freeman-Walter-Abele test has little, if any, application to determining the presence of statutory subject matter but rather, statutory subject matter should be based on whether the operation produces a "useful, concrete and tangible result". See *State Street Bank & Trust Co.* at 1374. Furthermore, the court found that there was no "business method exception" since the court decisions that purported to create such exceptions were based on novelty or lack of enablement issues and not on statutory grounds. Therefore, the court held that "[w]hether the patent's claims are too broad to be patentable is not to be judged under §101, but rather under §§102, 103 and 112." See *State Street Bank & Trust Co.* at 1377. Both of these analysis goes towards whether the claimed invention is non-statutory because of the presence of an abstract idea. Indeed, *State Street* abolished the Freeman-Walter-Abele test used in *Toma*. However, *State Street* never addressed the second part of the analysis, i.e., the "technological arts" test established in *Toma* because the invention in *State Street* (i.e., a computerized system for determining the year-end income, expense, and capital gain or loss for the portfolio) was already determined to be within the technological arts under the *Toma* test. This dichotomy has been recently acknowledged by the Board of Patent Appeals and Interferences (BPAI) in affirming a

§101 rejection finding the claimed invention to be non-statutory. See *Ex parte Bowman*, 61 USPQ2d (BNA) 1669 (BdPatApp&Int 2001).

In the present application, Claim 17 has no connection to the technological arts. None of the steps and preamble of the claim indicate any connection to a computer or technology. The steps of maintaining, providing; co-branding; maintaining; providing; marketing; and providing are broadly interpreted as manual steps. Therefore, the claims are directed towards non-statutory subject matter, i.e. not within technological arts. To overcome this rejection the Examiner recommends that Applicant amend the claims to better clarify which of the steps are being performed within the technological arts, such as using a digital computing device and amend the preamble of the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,592,375 to Salmon et al. in view of U.S. Patent No. 6,629,135 to Boss, Jr. et al.

Regarding claims 1, 7-9, 12-13, and 15, Salmon discloses an apparatus connecting buyers and seller of products and services (brokering goods or services between buyers and sellers) comprising: a comprehensive directory of companies (Product Profile database; Figures 2a-2f); a user maintained database of registered and

Art Unit: 3627

subscribing companies selected from the comprehensive directory (both buyers and sellers would pay a subscription fee for access to the system; col. 13, lines 62-65); service-brokering tools (Figure 1; a Seller's interface (300), a buyer's interface (500) and database (200)); registering means (both buyers and sellers would pay a subscription fee for access to the system; col. 13, lines 62-65); searching means (personal search application; col. 3, lines 58 – col. 4, line 7), based on geographical boundaries (geographical location; Figures 8b); assigning means denoting a weighted importance to provider characteristics (specify "must have" criteria, weighted "want to have" criteria; col. 7, lines 51-54; col. 6, lines 34-45); ordering means for ranking buyers and seller according to the weighted importance of provider (selected products are rank-ordered according to these sums of weights; col. 8, lines 19-24). Furthermore, Salmon discloses means for sharing requests for proposals (see at least col. 8, lines 4-17); a data sharing engine (multimedia database (200)); means for subscription a request brokering engine (both buyers and sellers would pay a subscription fee for access to the system; col. 13, lines 62-65); a request for brokering engine (Figure 1); an object catalog manager (Figure 1; col. 3, lines 48-57); means for a catalog synchronization process (Figure 1; col. 3, lines 48-57). However, Salmon does not disclose the branding means and an internal mechanism for a Web server to infer a private label interface from an initial network request of a registered and subscribing company that can persist and cache the private label interface information for the Web server by loading taxonomies specific to individual user-maintained database and specifying the location for a request for proposal by publishing a pending Partner record to an active

Art Unit: 3627

record and information servers within a qualified farm of load-balanced Web server to re-load the active record. Salmon discloses brokering transactions between sellers and a buyer of goods and services (abstract).

Ross, on the other hand, teaches disclose the branding means and an internal mechanism for a Web server to infer a private label interface from an initial network request of a registered and subscribing company that can persist and cache the private label interface information for the Web server by loading taxonomies specific to individual user-maintained database and specifying the location for a request for proposal by publishing a pending Partner record to an active record and information servers within a qualified farm of load-balanced Web server to re-load the active record (col. 3, lines 14- 36; col. 4, lines 46-col. 5, line 10; Figure 1). Ross teaches an e-commerce outsourcing system that provides hosts with transparent, context sensitive e-commerce supported pages. The host is provided with links correlating the host with a link for inclusion within a pages on the host website; the provided link correlates the host web site with a selected commerce object contextually related to material in the page. (Abstract). Furthermore, Ross discloses the look and feel of each participating Host is captured and stored (col. 3, lines 6-21). Hosts may include links to selected products or product categories within pages residing on the Hosts' website. Upon activation of such a link by a visitor of the Host website, a page is presented to the visitor incorporating a replica of the Host's look and feel directed to the sale of the selected products or product categories (branding means).

Art Unit: 3627

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the apparatus of Salmon, to include the branding means and an internal mechanism, in order to provide increased marketing potential, incremental sales, and new customer relationships for both the buyers and sellers (Ross col. 2, lines 62-61)

Regarding claims 2-6, Ross discloses an internal mechanism for a web server to infer a private label interface, URL or IP address of a registered and subscribing company; a partner object that can persist and cache the private label interface; the object that can be used to generate private label interface-specific HTML; a mechanism to publish a pending Partner record to an active record and inform all servers with an a qualified farm of load balanced web servers; and a mechanism to synchronize partner information (see at least col. 3, lines 6-57; col. 22, lines 26-54).

Regarding claims 10-11 and 14, 16, Ross discloses a partner management tool; a brand distribution service; a partner-branding framework; a web server with software having encapsulating technologies; programming objects; a template; navigating to a private labeled interface; clicking a registration hyperlink; selecting a subscription package; building a profile of a company; categorizing the provide by selecting main categories and sub-categories; and creating an affiliation (see at least col. 3, lines 6-57; col. 12, liens 41-61; col. 22, lines 26-54)

Regarding claim 17, Salmon discloses the method for connecting buyer and sellers of products and services comprising: maintaining a comprehensive online directory of sellers (Product Profile database; Figures 2a-2f); providing a request for

Art Unit: 3627

proposal application for integration into a web site (col. 7, lines 47-61); and maintaining a searchable directory of companies (col. 3, lines 49-58). However, Salmon does not disclose the co-branding; e-commerce infrastructure; marketing a private-labeled web site; and providing usage and revenue reports. Salmon discloses brokering transactions between sellers and a buyer of goods and services (abstract).

Ross, on the other hand, teaches an e-commerce outsourcing system (e-commerce infrastructure) and provides hosts with transparent, context sensitive e-commerce supported pages (abstract). The look and feel of each participating Host is captured and stored. Hosts may include links to selected products or product categories within pages residing on the Hosts' website. Upon activation of such a link by a visitor of the Host website, a page is presented to the visitor incorporating a replica of the Host's look and feel directed to the sale of the selected products or product categories (co-branding). Furthermore, Ross teaches revenue summary (revenue reports and usage; col. 8, lines 27-32), and target marketing (marketing, col. 24, lines 26-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the apparatus of Salmon, to include the co-branding; e-commerce infrastructure; marketing a private-labeled web site; and providing usage and revenue reports, in order to provide increased marketing potential, incremental sales, and new customer relationships for both the buyers and sellers (Ross col. 2, lines 62-61).

Response to Arguments

Art Unit: 3627

Applicant's arguments with respect to claims 1, 4, 6 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed April 18, 2005 have been fully considered but they are not persuasive.

Applicants remark that the '375 (Salomon) patent has "no disclosure of a comprehensive directory of companies".

The Examiner notes that Salomon ('375 patent) discloses a comprehensive directory of companies. Salmon discloses allowing information in a number of forms to be submitted by the seller that is compiled in a database (col. 1, lines 21-23). The database contains information including multimedia information, descriptive of respective one of the goods or services (col. 1, lines 29-31). Salmon discloses Product profile database which provides complete information (col. 2, lines 28-31). Furthermore, the information is collected from other sources such as personal references, product evaluations or reports (col. 2, lines 34-36). Moreover in col. 3, lines 54-64), Salmon discloses each product is represented in the database by a Product profile. Each product profile has two parts: a required part, and additional optional part. A Product Table 202 of the Product profile database in which each product occupies a row. Each table column represents a characteristic of a product.

Such a complete product profile database, which includes information that is collected from other sources and contains descriptions of the goods or services, is considered a comprehensive directory of companies.

Applicants remark that Salmon does not disclose "contacting subscribing members of the user-maintained database over a network".

The Examiner notes that Salmon discloses the contacting subscribing members of the user-maintained database over a network. In col. 1, lines 21-25, Salomon discloses the seller provides the information compiled in a database and reviewed by the buyer with the assistance of an interactive, expert system based on networked computer system. Salmon further discloses a seller's interface which enables the sellers to interactively enter information and a buyer's interface which provides a knowledge-based interactive protocol, enabling the buyer to select and review the descriptive information from the database and makes the perceptible the multimedia information in response to an interactive buyer request (col. 1, lines 32-38).

Such interaction between the seller and buyer is considered the contacting subscribing members of the user-maintained database over a network.

Applicants remark that Salmon does not disclose "searching means for sellers and buyers to search the directory and the user-maintained database based on geographical boundaries".

The Examiner notes that Salmon discloses the searching means. Salmon discloses a search session where a user specifies search criteria indicating characteristic for selection or exclusion of product (col. 7, lines 47-51).

Such search session specifying a search criteria is considered searching mean to search the directory.

Furthermore, Examiner notes that Salmon discloses the user-maintained database based on geographical boundaries. Salmon discloses a large number of additional applications that involve purchasing decisions (col. 14, lines 43-45). Applications that are transaction-oriented and required matching of criteria as part of the decision making process can use a system that identifies and mechanizes a core set of criteria, augments it with multimedia information and automates the process of collection and presentation of the information (col. 14, lines 45-50). The application of matching can be based on a required Profile template of the product profile, which contains information such as geographical location (col. 14, lines 51-62).

Such application of matching based on a required profile template of the product profile which includes the geographical location is considered the user maintained database based on geographical boundaries.

Applicants remark that Salmon does not disclose "assigning means to denote a weighted importance to provider characteristics associated with each subscribing buyer and seller".

The Examiner notes that Salmon discloses the assignment means to denote a weighted importance to provider characteristics. Salmon discloses the searching may be specified by "must have" criteria, weighted "want to have" criteria, and unstructured word associations (col. 7, lines 51-54). Furthermore, Salmon disclose the option of modifying the target number, the weighing factors for the "wants" or the "must" criteria to adjust the number of product selected from a database.

Such specification to specify the criteria when searching and the weighing factors is considered assigning means to denote a weighted importance to provider characteristics associated with each subscribing buyer and seller.

Applicants remark Ross does not disclose "a system and method that allows seller to appear in different ways across multiple branded directories, nor one that allows the sharing of RFPs between the various brands according to rules established by the brands".

The Examiner notes "a system and method that allows seller to appear in different ways across multiple branded directories, nor one that allows the sharing of RFPs between the various brands according to rules established by the brands" is not commensurate in scope to the recitation of claim 1. It is noted that the features upon which applicant relies (i.e., a system and method that allows seller to appear in different ways across multiple branded directories, nor one that allows the sharing of RFPs between the various brands according to rules established by the brands) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicants remark that Ross does not mention sellers contacting subscribing members; searching means and the user-maintained database; assigning means; denoting a weighted importance to provider characteristics; and ordering means".

The Examiner notes that Ross was cited for teaching the branding means. It was not cited for the contacting means; searching means and the user-maintained database;

assigning means; denoting a weighted importance to provider characteristics; and ordering means.

Applicants remark that neither Salmon nor Ross provide or suggest a motivation for one of ordinary skill in the art to combine any of the features and limitations disclosed.

In response to applicants remark that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation was found in Ross, col. 2, lines 62-61.

Applicants' remark that the references fail to disclose "an apparatus with service brokering tools where the service-brokering tools further include objects that can be used to generate private label interface-specific HTML where the object specifies the location of a request for proposal".

The Examiner notes that Salmon was cited for the service-brokering tools. In col. 1, lines 26-28, Salmon discloses the brokering transactions between the sellers and the buyer of goods or services, the system includes a database, a seller's interface and a buyer's interface. The Examiner then turns to Ross to teach the private label interface-specific HTML where the object specifies the location of a request for proposal. Ross

Art Unit: 3627

discloses the look and feel of each participating Host which is captured and stored. The Hosts may include links to selected products or product categories within pages residing on the Host's website, a page is presented to the visitor incorporating a replica of the Host's look and feel which is directed to the sale of the selected products or product categories. (Col. 3, lines 6-13) Ross further teaches the look and feel elements of the page are identified, and these elements are stored for future use in generating outsourced transparent pages (col. 3, lines 16-20).

Applicants remark that Salmon does not disclose "means for sharing requests for proposals".

The Examiner notes that Salmon discloses means for sharing requests for proposals. In col. 1, lines 21-25, Salomon discloses the seller provides the information compiled in a database and reviewed by the buyer with the assistance of an interactive, expert system based on networked computer system. Salmon further discloses a seller's interface which enables the sellers to interactively enter information and a buyer's interface which provides a knowledge-based interactive protocol, enabling the buyer to select and review the descriptive information from the database and makes the perceptible the multimedia information in response to an interactive buyer request (col. 1, lines 32-38). Furthermore, Salmon discloses a search session wherein a user specifies search criteria indicating characteristic for selection or exclusion of product (col. 7, lines 47-51). Moreover, Salmon discloses the searching may be specified by "must have" criteria, weighted "want to have" criteria, and unstructured word associations (col. 7, lines 51-54).

Such interaction between the seller and buyer and the searching are considered means for sharing requests for proposals.

Applicants remark that Ross fails to disclose "means for geographic radium searching".

The Examiner notes that Salmon discloses "means for geographic radium searching". Salmon discloses a large number of additional applications that involve purchasing decisions (col. 14, lines 43-45). Applications that are transaction-oriented and required matching of criteria as part of the decision making process can use a system that identifies and mechanizes a core set of criteria, augments it with multimedia information and automates the process of collection and presentation of the information (col. 14, lines 45-50). The application of matching can be based on a required Profile template of the product profile, which contains information such as geographical location (col. 14, lines 51-62).

Such application of matching based on a required profile template of the product profile which includes the geographical location is considered means for geographic radium searching.

Applicants remark that "Salmon does not disclose means for partner web site branding, Ross patent relied upon to provide this missing feature, does not cure the deficiencies of the Salmon patent".

The Examiner directs Applicants attention to the Examiner's response to Applicants' previous remarks regarding claim 1.

Applicants remarks there is "no disclosure of sharing or request for proposals and the publication of modifications made to requests for proposals, as recited to claim 7" and no disclosure of "permitting sellers to interact with buyers".

The Examiner notes that Salmon was cited for disclosing the sharing or request for proposals and the publication of medications made to requests for proposals and the permitting of sellers to interact with buyers. The Examiner directs Applicants attention to the Examiner's response to Applicants' previous remarks regarding claims 1 and 7. The Examiner then turns to Ross in teaching the means for partner web site branding.

Applicants remark that neither Salmon nor Ross provide or suggest a motivation for one of ordinary skill in the art to combine any of the features and limitations disclosed.

The Examiner directs Applicants attention to the Examiner's response to Applicants' previous remarks regarding claim 1.

Applicants remark that Salmon does not disclose "providing a request for proposal application for integration into a Web site".

The Examiner directs Applicants attention to the Examiner's response to Applicants' previous remarks regarding claim 7.

Applicants remark that Ross does not cure the deficiencies of the Salmon patent. In addition, Applicants remark that neither Ross nor Salmon discloses the co-branding request.

The Examiner notes that Ross teaches the co-branding request. Ross discloses an affiliate commerce system and method of co-marketing on the Internet (col. 1, lines

Art Unit: 3627

52-53). Ross disclose a data store which includes a look and feel description associated with a host website, a communications link to a visitor computer and a processor. The processor performs the tasks of capturing a look and feel description associated with a host website, storing the captured look an feel description in the data store, providing the host website with a link that link correlates the host website with a commerce object of inclusion within a page on the host website and which when activated causes the processor to serve and e-commerce supported page with a look and feel corresponding to the captured look and feel description of the host web site associated with the provided link and with content based on the commerce object associated with the provided link. (Col. 4, lines 46-59)

Such task of capturing a look and feel description associated with a host web site and providing the host website with a link that link correlates the host website with a commerce object and activates an e-commerce supported page with a look and fell corresponding to the captured look and fell description of the host web site associated with the provided link are considered co-branding.

Applicants remark that neither Salmon nor Ross provide or suggest a motivation for one of ordinary skill in the art to combine any of the features and limitations disclosed.

The Examiner directs Applicants attention to the Examiner's response to Applicants' previous remarks regarding claim 1.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

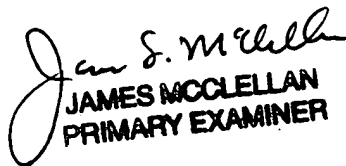
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
June 27, 2005


JAMES MCCLELLAN
PRIMARY EXAMINER